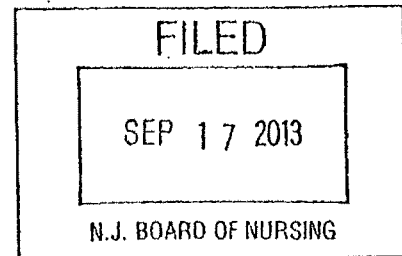
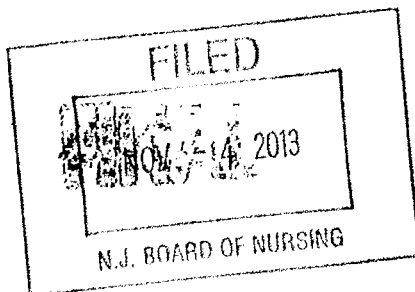


JOHN J. HOFFMAN  
ACTING ATTORNEY GENERAL OF NEW JERSEY  
Division of Law - 5th Floor  
124 Halsey Street  
PO Box 45029  
Newark, New Jersey 07101  
Attorney for the State Board of New Jersey



By: Megan Cordoma  
Deputy Attorney General  
Tel. (973) 648-2436



STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF NURSING

IN THE MATTER OF THE SUSPENSION OF:  
THE CERTIFICATION OF:

SHIRLEY DRISCOLL, CHHA  
Certification No. 26NH11831700

TO PRACTICE AS A HOME HEALTH AIDE  
IN THE STATE OF NEW JERSEY

Administrative Action

PROVISIONAL ORDER  
OF DISCIPLINE

☒ Finalized by Default on  
November 4, 2013

This matter was opened to the New Jersey State Board of Social Work Examiners (the "Board") upon receipt of information which the Board has reviewed and on which the following preliminary findings of fact and conclusions of law are made:

**PRELIMINARY FINDINGS OF FACT**

1. Shirley Driscoll ("Respondent") is a certified homemaker-home health aide ("CHHA") in the State of New Jersey and has been a licensee at all times relevant hereto. (A copy of a printout of the

Board's records, indicating Respondent's certification status is attached hereto as Exhibit A and made a part hereof.)

2. On or about July 25, 2012, a complaint came to the Board from Respondent's former employer, Right at Home in Manahawkin, New Jersey. The complaint stated that Respondent was terminated from her position after she admitted to being intoxicated while caring for a patient during her normal course of practice as a CHHA. Specifically, a family member of a patient reported that on July 15, 2012, Respondent appeared intoxicated while performing her functions as a live-in caregiver; Respondent smelled of alcohol, bumped into and broke patient's china, and stumbled as she returned to her room. When questioned about the incident the following day, July 16, 2012, Respondent admitted to her supervisor that she was drinking while performing her duties as a live-in caregiver. The supervisor, and a witness to the conversation between the supervisor and the Respondent, stated that Respondent smelled of alcohol, slurred her words, and appeared intoxicated. Respondent was terminated at that time. The complaint included a copy of the acknowledgement of termination signed by Respondent, and a copy of signed statements by the supervisor and the eye-witness to the conversation. (A copy of the complaint with the supporting documents is attached hereto as Exhibit B and made a part hereof.)

**PRELIMINARY CONCLUSIONS OF LAW**

The Board finds that Respondent has engaged in professional misconduct, specifically, Respondent was intoxicated while on duty. As such, Respondent is in violation of N.J.S.A. 45:1-21 (e). Therefore, Respondent's conduct described herein provides grounds to take disciplinary action against her certification to practice as a homemaker - home health aide in the State of New Jersey, by operation of N.J.S.A. 45:1-21 (e) and (h), in that Respondent has engaged in professional misconduct and has violated state statutes.

IT IS THEREFORE ON THIS 17<sup>th</sup> day of September, 2013

**ORDERED THAT:**

1. Respondent's certification to practice as a certified homemaker - home health aide in the State of New Jersey is hereby preliminarily suspended for a minimum of one (1) year.

2. In the event that Respondent seeks reinstatement of her New Jersey certification, Respondent shall, at the Board's discretion, appear before the Board to discuss her readiness to re-enter practice as a homemaker - home health aide:

a. Provide the Board with evidence that she is capable of discharging the functions of a certificate holder in a manner consistent with the public's health, safety, and welfare; and that she is not then suffering from any impairment or limitation resulting from the use of any addictive substance which could affect her practice.

b. Provide the Board with an in-depth, current evaluation from a medical practitioner knowledgeable in addiction therapy, or an Alcohol and Drug Counselor, who is aware of this Order and who is pre-approved by the Board.

Respondent shall provide documentation that she has complied with all recommendations of the treating practitioner and that the practitioner recommends that her certification be reinstated and understands that if her certification is reinstated, she will be providing care to patients in their homes.

c. Provide the Board with documentation to the satisfaction of the Board that Respondent has refrained from the use of any and all potentially addictive substances, for a minimum period of six (6) months, except as prescribed by an authorized health care practitioner who is made aware of Respondent's substance abuse history.

d. Provide the Board with a full account of her conduct during the intervening period of time, from the commencement of her suspension to her petition for reinstatement.

3. The Board reserves the right to place restrictions and/or limitations upon Respondent's certification to practice as a homemaker - home health aide in the State of New Jersey in the event that her certification is reinstated.

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Respondent may request a modification or dismissal of the above stated Findings of Fact or Conclusions of Law within 30 days of the date this Provisional Order is filed by:

a. Submitting a written request for modification or dismissal to George Hebert, Executive Director, 124 Halsey Street, Sixth Floor, PO Box 45010, Newark, New Jersey 07101.

b. Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.

c. Submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor or offered in mitigation of penalty.

Any submissions will be reviewed by the Board and the Board will thereafter determine whether further proceedings are necessary. If no material discrepancies are raised through a supplemental submission during the thirty-day period, or if the Board is not persuaded that the submitted materials merit further consideration, a Final Order will be entered.

In the event that Respondent's submissions establish a need for further proceedings, including, but not limited to an evidentiary hearing, Respondent shall be notified with regard thereto. In the event that an evidentiary hearing is ordered, the preliminary findings of fact and conclusions of law contained herein may serve as notice of the factual and legal allegations in such proceeding. Further, in the event a hearing is held upon review of the record, the Board shall not be limited to the findings, conclusions and sanctions stated herein.

In the event that the Board receives no written request for modification or dismissal within 30 days following entry of this Provisional Order, without further Board review, all referenced preliminary Findings of Fact and Conclusions of Law and all provisional sanctions or penalties imposed by this Order shall automatically become the Final Decision and Order of the Board.

Thereafter, Respondent's failure to comply with any sanction or penalty imposed by this Order shall be considered a violation of a Board Order in contravention of N.J.S.A. 45:1-21 (e) and (h) and N.J.A.C. 13:45C-1.4 and may subject Respondent to additional sanction and/or penalty.

NEW JERSEY BOARD OF NURSING

By:

 Patricia Murphy, PhD, APRN, FAAN

Patricia Murphy, PhD, APRN  
Board President